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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,252	09/15/2000	Sekaran Nanja	20706-000110US	3800

7590 12/24/2003

Fidel D Nwamu  
Townsend and Townsend and Crew LLP  
Two Embarcadero Center 8th Floor  
San Francisco, CA 94111-3834

EXAMINER
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DU, THUAN N

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 12/24/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/663,252

**Applicant(s)**

NANJA, SEKARAN

**Examiner**

Thuan N. Du

**Art Unit**

2185

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office Action is in response to Amendment filed on October 17, 2003 (Paper No. 5).
2. Claims 2 and 4 have been cancelled.
3. Claims 1, 3 and 5-23 are presented for examination.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Double Patenting***

5. Claims 1 and 5-7 provisionally rejected under the judicially created doctrine of double patenting over claims 1-6 of copending Application No. 09/662,990. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: both applications claim a method for allocating resources comprising the steps of displaying a list of resources, wherein the resources comprise at least one of hardware and software; selecting the resources and configuring the selected resources. The subject application recites the processing resources which does not recite in the copending application. It would have been obvious to one of ordinary skill in the art to recognize that processing resources are one of a plurality of types of resources.

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Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

***Claim Rejections - 35 USC § 103***

6. Claims 1, 3 and 5-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vrhel, Jr. et al. [Vrhel, Jr.] (U.S. Patent No. 6,543,047).

7. Regarding claims 1 and 13, Vrhel, Jr. teaches a method for allocating processing resources substantially as claimed comprising the steps of:

providing a list of processing resources to a user, wherein the processing resources comprise at least one of a hardware processor and a software program [col. 2, lines 23-24]; and configuring the selected processing resource [col. 2, line 32 et seq.].

Vrhel, Jr. does not explicitly teach the menu is displayed on a display device and the user uses an input device to indicate the selected processor resource. One of ordinary skill in the art would have recognized that, when ordering on-line, the menu should be displayed on a display device at the user site. Furthermore, for selecting a resource in the menu, the user obviously uses an input device (mouse, keyboard) to indicate the selected resource.

8. Regarding claims 3, 5-7, 14 and 18-23, these claims are directed to method steps for allocating processing resources of claims 1 and 13. As stated above, Vrhel, Jr. teaches the invention substantially as set forth in claims 1 and 13. At the time of the invention, one of ordinary skill in the art would have readily recognized that Vrhel, Jr. may obviously also teach

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the method steps of claims 1 and 13 as set forth in claims 3, 5-7, 14 and 18-23. As such, claims 3, 5-7, 14 and 18-23 are rejected under the same rationale with respect to claims 1 and 13.

9. Regarding claims 8-12 and 15, Vrhel, Jr. teaches the claimed method steps. Therefore, Vrhel, Jr. teaches the apparatus to implement the claimed method steps.

10. Regarding claims 16 and 17, Vrhel, Jr. teaches the claimed method steps. Therefore, Vrhel, Jr. teaches the instructions for carrying out the claimed method steps.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (703) 308-6292 or via e-mail, **thuan.du@uspto.gov**. The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on (703) 305-9717.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

### **Any response to this action should be mailed to:**

U.S. Patent and Trademark Office  
P.O. Box 2327  
Arlington, VA 22202.

The fax number for the organization is (703) 872-9306.

Hand-delivered responses should be brought to:

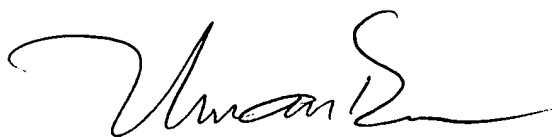
Crystal Park II  
2121 Crystal Drive

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Arlington, VA 22202  
Fourth Floor (Receptionist).

A handwritten signature in black ink, appearing to read 'Thuan N. Du', with a large, sweeping initial 'T'.

Thuan N. Du  
December 15, 2003